



17 JUN 2003

Anthony M. Insogna
Pennie & Edmonds
1155 Avenue of Americas
New York, New York 10036

In re Application of
SANTORO et al.
Application No.: 09/937,322
PCT No.: PCT/GB00/01086
Int. Filing Date: 22 March 2000
Priority Date: 22 March 1999
Attorney Docket No.: 10167-013-999
For: CHEMICAL COMPOSITION AND
THEIR USES

DECISION ON PETITION

This is a decision on applicants' "Communication Regarding The Filing of Petition to Withdraw Holding of Abandonment and Accompanying Documents" filed 07 March 2003, which is being treated as petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 22 March 2000, applicants filed international application PCT/GB00/01086 which claimed a priority date of 22 March 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 September 2000. A Demand was filed for International Preliminary Examination prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 22 September 2001.

On 21 September 2001, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia*, by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 30 October 2001, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 CFR 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 11 July 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 30 October 2001 within the time period set therein.

On 07 March 2003, applicants filed the present petition which was accompanied, among other things: a copy of the declaration(s) and power of attorney(s) filed 20 December 2001; post card receipt dated 20 December 2001; a copy of a petition to withdraw a holding of abandonment dated 18 July 2002; and a post card receipt dated 18 July 2002.

DISCUSSION

Applicants state in their present petition that a response to the Notice of Missing Requirements was received at the United States Patent and Trademark Office on 20 December 2001. A review of the present application reveals that the declaration and power of attorney in response to the Notice of Missing Requirements filed 20 December 2001 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicants, title of invention, and serial/application number. The receipt itemizes declarations executed by the three joint-inventors. The receipt is stamped "OIPE DEC 20 2001" across its face is sufficient to indicate that the declaration and power of attorney was in fact received in the Office on 20 December 2001.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is GRANTED.

This application will be given an international filing date of 22 March 2000 and a date of **20 December 2001** under 35 U.S.C. 371.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.



Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459